

2017 -- H 5549

LC001564

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL PROCEDURE - IDENTIFICATION AND APPREHENSION OF
CRIMINALS

Introduced By: Representatives Lombardi, Solomon, Regunberg, Shanley, and Diaz

Date Introduced: February 16, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 12-1.3-2 and 12-1.3-3 of the General Laws in Chapter 12-1.3
2 entitled "Expungement of Criminal Records" are hereby amended to read as follows:

3 **12-1.3-2. Motion for expungement.**

4 (a) Any person who is a first offender may file a motion for the expungement of all
5 records and records of conviction for a felony or misdemeanor by filing a motion in the court in
6 which the conviction took place; provided, that no person who has been convicted of a crime of
7 violence shall have his or her records and records of conviction expunged; and provided, that all
8 outstanding court-imposed or court-related fees, fines, costs, assessments, charges, and/or any
9 other monetary obligations have been paid, unless such amounts are reduced or waived by order
10 of the court.

11 (b) Any person who has been convicted of more than one misdemeanor, and who has not
12 been convicted of a felony which is considered a crime of violence, may file a motion for the
13 expungement of any or all of those misdemeanors in the court in which the convictions took
14 place, provided that multiple convictions for offenses under chapter 29 of title 12 are not eligible
15 for and may not be expunged.

16 ~~(b)~~(c) Subject to subsection (a), a person may file a motion for the expungement of
17 records relating to a misdemeanor conviction after five (5) years from the date of the completion
18 of his or her sentence.

1 (d) Any person who has been convicted of more than one felony, and who has not been
2 convicted of a felony which is considered a crime of violence, may file a motion for the
3 expungement of any or all of those felonies in the court in which the convictions took place,
4 provided that multiple convictions for offenses under chapter 29 of title 12 are not eligible for and
5 may not be expunged.

6 ~~(e)~~(e) Subject to subsection (a), a person may file a motion for the expungement of
7 records relating to a felony conviction after ten (10) years from the date of the completion of his
8 or her sentence.

9 ~~(f)~~(f) Subject to § 12-19-19(c), and without regard to subsections (a) through (c) of this
10 section, a person may file a motion for the expungement of records relating to a deferred sentence
11 upon its completion, after which the court will hold a hearing on the motion.

12 (g) Subject to subsection (b) of this section, a person may file a motion for the
13 expungement of records relating to misdemeanor convictions after ten (10) years from the date of
14 the completion of their last sentence.

15 (h) Subject to subsection (d) of this section, a person may file a motion for the
16 expungement of records relating to felony convictions after twenty (20) years from the date of the
17 completion of their last sentence.

18 **12-1.3-3. Motion for expungement -- Notice -- Hearing -- Criteria for granting.**

19 (a) Any person filing a motion for expungement of the records of his or her conviction
20 pursuant to § 12-1.3-2 shall give notice of the hearing date set by the court to the department of
21 the attorney general and the police department that originally brought the charge against the
22 person at least ten (10) days prior to that date.

23 (b) The court, after the hearing at which all relevant testimony and information shall be
24 considered, may, in its discretion, order the expungement of the records of conviction, but not
25 records of conviction of offenses under chapter 29 of title 12 if the petitioner has been convicted
26 of more than one misdemeanor, nor felony records of conviction of offenses under chapter 29 of
27 title 12 of the person filing the motion if it finds:

28 (1) (i) That in the five (5) years preceding the filing of the motion, if the conviction was
29 for a misdemeanor, or in the ten (10) years preceding the filing of the motion, if the conviction
30 was for a felony, the petitioner has not been convicted nor arrested for any felony or
31 misdemeanor; there are no criminal proceedings pending against the person; that the person does
32 not owe any outstanding court-imposed or court-related fees, fines, costs, assessments, or
33 charges, unless such amounts are reduced or waived by order of the court, and he or she has
34 exhibited good moral character; or

1 (ii) That after a hearing held under the provisions of § 12-19-19(c), the court finds that
2 the person has complied with all of the terms and conditions of the deferral agreement including,
3 but not limited to, the payment in full of any court-ordered fines, fees, costs, assessments, and
4 restitution to victims of crimes; there are no criminal proceedings pending against the person; and
5 he or she has established good moral character. Provided, that no person who has been convicted
6 of a crime of violence shall have their records relating to a deferred sentence expunged;

7 (iii) That in the ten (10) years preceding the filing of the motion, if the convictions were
8 for multiple misdemeanors, the petitioner has not been convicted nor arrested for any felony or
9 misdemeanor, there are no criminal proceedings pending against the person, and they have
10 exhibited good moral character; and

11 (iv) That in the twenty (20) years preceding the filing of the motion, if the convictions
12 were for multiple felonies, the petitioner has not been convicted nor arrested for any felony or
13 misdemeanor, there are no criminal proceedings pending against the person, and they have
14 exhibited good moral character; and

15 (2) That the petitioner's rehabilitation has been attained to the court's satisfaction and the
16 expungement of the records of his or her conviction is consistent with the public interest.

17 (c) If the court grants the motion, it shall, after payment by the petitioner of a one
18 hundred dollar (\$100) fee to be paid to the court, order all records and records of conviction
19 relating to the conviction expunged and all index and other references to it removed from public
20 inspection. A copy of the order of the court shall be sent to any law enforcement agency and other
21 agency known by either the petitioner, the department of the attorney general, or the court to have
22 possession of the records. Compliance with the order shall be according to the terms specified by
23 the court.

24 (d) The defendant shall be advised at the hearing that any and all bail money relating to a
25 case that remains on deposit and is not claimed at the time of expungement shall be escheated to
26 the state's general treasury in accordance with chapter 12 of title 8.

27 SECTION 2. This act shall take effect upon passage and shall apply to all convictions
28 imposed before or after the effective date.

=====
LC001564
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL PROCEDURE - IDENTIFICATION AND APPREHENSION OF
CRIMINALS

1 This act would allow those persons with multiple misdemeanor convictions and/or
2 multiple felony convictions to file a motion for expungement of all records and records of
3 convictions, provided that no person who has been convicted of any felony which is considered a
4 crime of violence shall have their records of conviction expunged and convictions for offenses
5 under chapter 29 of title 12 shall not be eligible for and may not be expunged. Motions may be
6 brought after ten (10) years from the date of the completion of their last sentence for
7 misdemeanors and after twenty (20) years from the date of their last sentence for felonies.

8 This act would take effect upon passage and would apply to all convictions imposed
9 before or after the effective date.

=====
LC001564
=====